

AG Contract No. KR03-0159TRN
ADOT ECS File: JPA 02-168
Project No. HRF-SUP-0-779
TRACS No. HF079 01D & 01C
Section: Magma Avenue
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
TOWN OF SUPERIOR

THIS AGREEMENT is entered into 24th April, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and TOWN OF SUPERIOR acting by and through its TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-6993(g) to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. The State has approved the exchange of \$22,500.00 Highway User Revenue Funds (HURF) in Fiscal Year 2002 to the Town for the design of improvements to Magma Avenue, and such funds will be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) federal funds and the obligation authority for federal funds in the amount of \$27,462.00 in Fiscal Year 2002.

4. The State has approved the exchange of \$127,000.00 Highway User Revenue Funds (HURF) to the Town for the construction of improvements to Magma Avenue, and such funds will be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) federal funds and the obligation authority for federal funds in the amount of \$155,010.00 in Fiscal Year 2002.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 25972
Filed with the Secretary of State
Date Filed: 04/24/03

Janice K. Brewer
Secretary of State

By: Timothy J. Haernewald

II. SCOPE OF WORK

1. The Town will:

- a. Provide design plans, specifications and such other documents and services required for the improvements contemplated for Magma Avenue together with invoices.
- b. Be responsible for any additional funds required for design of the Project, and for any claims for extra compensation for whatever reason. Comply with all applicable State laws, rules and regulations.
- c. Invoice the State in an amount not to exceed \$22,500.00 for reimbursement for the costs of design.
- d. Call for bids and award one or more construction contracts for the Project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason.
- e. Invoice the State for thirty percent of the project construction cost, at the start of construction.
- f. Invoice the State for thirty percent of the project cost, at the thirty percent and sixty percent project completion stages.
- g. Upon completion, approve and accept the project as complete and provide maintenance. Provide the State (Local Government Section) with a letter documenting the notice of the approval and acceptance of the project.
- f. Invoice the State for the remaining ten-percent of the project cost at the one hundred percent project completion stage after the Town, CAAG, and the State representatives have completed final project review.

2. The State will:

- a. Within 30 days after receipt and approval of a design invoice, advance the Town HURF funds in an amount not to exceed \$22,500.00 for design.
- b. Within 30 days after receipt and approval of construction invoices, advance the Town HURF funds for thirty percent of the project costs at the start of construction, for thirty percent of the project cost at the thirty percent completion stage, for thirty percent of the project cost at the sixty percent completion stage, and for ten percent of the project at the one hundred percent project completion stage, at a total amount of \$127,000.00 for construction.
- c. Withhold from CAAG, federal funds and the obligation authority of federal funds in the amount of \$27,462.00 in Fiscal Year 2002 for design.
- d. Withhold from CAAG, federal funds and the obligation authority of federal funds in the amount of \$155,010.00 in Fiscal Year 2002 for construction.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The Town assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds, that any damages arising from carrying out, in any respect, the terms of this agreement or any

modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:


Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
FAX (602-712-7424)

Town of Superior
Town Manager
734 Main Street
Superior, AZ 85273

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF SUPERIOR

By 

MICHAEL O. HING
Mayor

STATE OF ARIZONA
Department of Transportation

By 

DALE BUSKIRK, Acting Division Director
Transportation Planning Division

ATTEST

By 

RITA M. WENTZEL
Town Clerk

RESOLUTION NO. 386

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN
OF SUPERIOR, PINAL COUNTY, ARIZONA, AUTHORIZING THE
EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE ARIZONA DEPARTMENT OF
TRANSPORTATION AND THE TOWN OF SUPERIOR.

WHEREAS, the Mayor and Council of the Town of Superior have authority, pursuant to A.R.S. §11-951 et seq. to enter into intergovernmental agreements to carry out improvements to Town streets, and

WHEREAS, pursuant to the provisions of Intergovernmental Agreement No. JPA 02-168, being AG Contract No. KR03-0159TRN, improvements to Magma Avenue are proposed and specific provisions are made for funding of said improvements, and

WHEREAS, the Mayor and Council believe that the improvement of Magma Avenue and the funding arrangements provided for in said Intergovernmental Agreement are in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED that the Mayor of the Town of Superior is hereby authorized to execute all documents necessary to carry out the provisions of AG Contract No. KR03-0159TRN and ADOT File No. JPA 02-168 for the improvements of Magma Avenue. The Mayor is further authorized to execute any, and all, documents necessary to provide for the funding of said project in accordance with the provisions of the Intergovernmental Agreement.

PASSED AND ADOPTED this 20th day of February, 2003.

ATTEST:

Rita M. Wentzel
Town Clerk

[Signature]
Mayor

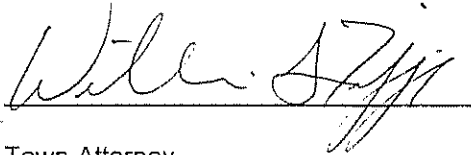
APPROVED AS TO FORM:

[Signature]
Town Attorney

APPROVAL OF THE TOWN OF SUPERIOR ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF SUPERIOR and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 20th day of February, 2003



Town Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR03-0159TRN (JPA 02-168), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED April 15, 2003.

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.